



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

RALPH C. MEYER, DC  
KULM MEDICAL, PA

**Respondent Name**

AMERICAN FIRE & CASUALTY CO

**MFDR Tracking Number**

M4-16-1568-01

**Carrier's Austin Representative**

Box Number 1

**MFDR Date Received**

FEBRUARY 5, 2016

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "These charges were denied as 'pre-authorization absent.' Please see attached pre-authorization#10916759 authorizing 23 sessions of physical therapy from 01/15/2015 to 02/27/2015. Please reconsider and made additional payment accordingly. "

**Amount in Dispute:** \$202.40

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** The respondent did not submit a response to this request for medical fee dispute resolution.

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 6, 2015	CPT Code 97140-59-GP (X1)	\$47.72	\$129.74
	CPT Code 97110-GP (X3)	\$154.68	\$36.38
TOTAL		\$202.40	\$166.12

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203, titled *Medical Fee Guideline for Professional Services*, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
3. 28 Texas Administrative Code §134.600, requires preauthorization for specific treatments and services.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated May 18, 2011

- 197-Precertification/Authorization/Notification absent.
- Z710-The charge for this procedure exceeds the fee schedule allowance.

- XF06-Per TX rule 134.600 Pre-Auth is Required. If services have been preauthorized resubmit the bill with authorization info for reconsideration.
  - MA04-Number of occurrences on authorization record has been exceeded.
  - 193, ZD86-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - W3-Request for reconsideration.
5. The Division placed a copy of the Medical Fee Dispute Resolution request in the insurance carrier's Austin representative box, which was acknowledged received on February 12, 2016. Per 28 Texas Administrative Code §133.307(d)(1), "The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile within 14 calendar days after the date the respondent received the copy of the requestor's dispute. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information." The insurance carrier did not submit any response for consideration in this dispute. Accordingly, this decision is based on the information available at the time of review.

### **Issues**

1. Did the disputed physical therapy require preauthorization?
2. Is the requestor entitled to reimbursement?

### **Findings**

1. Per 28 Texas Administrative Code §134.600(p)(5)(A), the non-emergency healthcare that requires preauthorization includes: "(5) physical and occupational therapy services, which includes those services listed in the Healthcare Common Procedure Coding System (HCPCS) at the following levels: (A) Level I code range for Physical Medicine and Rehabilitation, but limited to:
  - (i) Modalities, both supervised and constant attendance;
  - (ii) Therapeutic procedures, excluding work hardening and work conditioning."

On January 21, 2015, the requestor obtained preauthorization approval for six (6) sessions of physical therapy, myofascial release and therapeutic exercise. The start date was January 15, 2015 and ended February 27, 2015.

Review of the submitted documentation finds that no documentation was submitted to support the requestor had exceeded the preauthorized services; therefore, reimbursement is recommended.

2. 28 Texas Administrative Code §134.203(a)(5) states "Medicare payment policies" when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare."

The services in dispute are:

- 97110-GP-59 -"Therapeutic procedure, 1 or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility."
- 97140-GP – "Manual therapy techniques (eg, mobilization/ manipulation, manual lymphatic drainage, manual traction), 1 or more regions, each 15 minutes."

The requestor appended modifiers "GP- Services delivered under an outpatient physical therapy plan of care," and "59-Distinct Procedural Service."

Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007."

CMS published Medical Learning Network (MLN) Matters, effective January 1, 2011 which states in part “Many therapy services are time-based codes, i.e., multiple units may be billed for a single procedure. The Centers for Medicare & Medicaid Services (CMS) is applying a MPPR to the practice expense payment when more than one unit or procedure is provided to the same patient on the same day, i.e., the MPPR applies to multiple units as well as multiple procedures. Full payment is made for the unit or procedure with the highest PE payment. For subsequent units and procedures, furnished to the same patient on the same day, full payment is made for work and malpractice and 80 percent payment for the PE for services furnished in office settings and other non-institutional settings and at 75 percent payment for the PE services furnished in institutional settings.” The multiple procedure rule discounting applies to the disputed service.

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

Review of Box 32 on the CMS-1500 the services were rendered in zip code 75041, which is located in Garland, Texas; therefore, the Medicare participating amount is based on locality “Dallas, Texas”.

The 2015 DWC conversion factor for this service is 56.2.

The 2015 Medicare Conversion Factor is 35.7547.

To determine the MAR, the above formula and multiple procedure rule (MPR) discounting was applied.

CODE	No. of Units	Medicare Participating Amount	MAR	IC Paid	Additional Reimbursement Due
97110	3	\$32.80	\$129.74	\$0.00	\$129.74
97140	1	\$30.36	\$36.38	\$0.00	\$36.38

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$166.12.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$166.12 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
04/07/2016  
Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**